



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2018

CORAM :

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The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.SUNDAR

W.A. (MD)No.880 of 2018

and

C.M.P. (MD)No.5550 of 2018

The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division,
Kovilpatti,
Thootukudi.

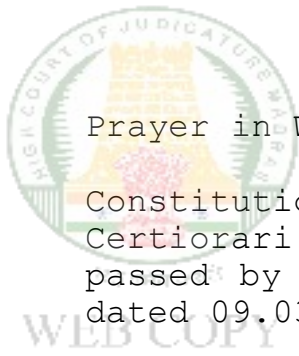
.. Appellant

Vs.

- 1.The Deputy Commissioner of Labour,
(Authority under the Payment of Wages Act),
Madurai.
- 2.T.Panjamanikkam
- 3.P.Karmegam
- 4.A.Baskaran
- 5.S.Chellamuthu
- 6.S.Arumugam
- 7.A.Karuppasamy
- 8.K.Kannan
- 9.G.Saravanan
- 10.G.RameshKannan
- 11.S.Kannan
- 12.G.Kannan
- 13.S.Seenipandi
- 14.R.Kathiresan
- 15.K.Rathakrishnan
- 16.P.Raja
- 17.S.Lakshmanan
- 18.R.Velusamy
- 19.A.Krishnasamy
- 20.N.Balasubramanian
- 21.A.Suresh

.. Respondents

Writ Appeal is preferred under Clause 15 of Letters Patent against
<https://hcservices.ecourts.gov.in/hcservices/> the order dated 15.02.2018 passed in W.P. (MD)No.7985 of 2016.



Prayer in WP(MD).No. 7985/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 1st respondent in PW.4/2015 to 22/2015 and 25/2015 dated 09.03.2016 and quash the same.

For Appellant : Ms.Porkodi Karnan

For Respondents : Mr.A.K.Baskara Pandian, Spl.G.P. for R-1
Mr.S.Arunachalam for RR2 to 21

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JUDGMENT

(Judgment of the Court was made by M.Sundar, J.)

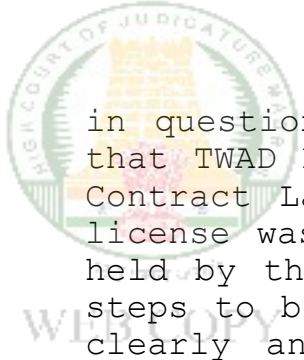
20 individuals filed a petition before the Deputy Commissioner of Labour, Madurai, who is the authority under the Payment of Wages Act, 1936. This petition was filed under Section 15(2) of the Payment of Wages Act. Deputy Commissioner of Labour in and by an order dated 09.03.2016 acceded to the prayer of 20 individuals.

2 What transpired before the original authority, i.e., Deputy Commissioner of Labour is that the employer TWAD Board took the stand that the 20 individuals are in contract employment and they are not in direct employment under the TWAD Board. However, no document was placed before the original authority and no evidence was let in to buttress or establish this plea / defence of TWAD Board. This is clearly articulated in the order of the original authority.

3 The original authority has also specifically referred to the fact that the registration certificate under the Contract Labour (Regulation and Abolition) Act, 1970 has not been filed and the contract, i.e., license to deploy contract labour has also not been placed before the authority.

4 One other factor that has weighed with the original authority is that there was no dispute about the fact that 20 individuals who went before the original authority were actually deployed in various projects of TWAD Board. Under such circumstances, the writ petition being W.P.(MD)No.7985 of 2016 was filed by the TWAD Board assailing the aforesaid order of the original authority dated 09.03.2016. TWAD Board was represented by Ms.Porkodi Karnan, learned counsel. Deputy Commissioner of Labour, Madurai arrayed as first respondent before us was represented by Additional Government Pleader / State counsel. 20 workmen arrayed as respondent Nos.2 to 21 before us were represented by learned counsel Mr.S.Arunachalam.

5 Array of parties was same before learned Single Judge also. After hearing both sides, learned Single Judge dismissed the writ petition holding that TWAD Board has not placed any material controverting the claim of 20 individuals under the Payment of Wages Act. In the order of the learned Single Judge that has been called



in question before this Division Bench, it has also been observed that TWAD Board has a legal obligation to obtain license under the Contract Labour (Regulation and Abolition) Act, 1970 and no such license was marked before the original authority. It has also been held by the learned Single Judge that TWAD Board did not take any steps to bring on record the alleged contractors. It has been very clearly and categorically held in the order called in question before us that the issue is really not about the status of 20 individuals as it was conceded on facts that the private respondents, i.e., 20 individuals had actually served TWAD Board either directly or indirectly. The only issue that was in dispute was rate of wages payable. Therefore, on this ground also, the verdict went against the TWAD Board in the order that has been called in question. Therefore, TWAD Board's defence / sole plea that 20 individuals are governed by the Contract Labour (Regulation and Abolition) Act, 1970 is of no avail.

6 We have heard Ms.Porkodi Karnan, learned counsel for the appellant, Mr.S.Arunachalam, learned counsel who accepted notice on behalf of private respondents 2 to 21 and Mr.A.K.Baskara Pandian, learned Special Government Pleader (State counsel), who accepted notice on behalf of respondent No.1. By consent of both sides, the main writ appeal itself is taken up and heard.

7 Learned counsel for the appellant submitted that before the original authority, some documents were placed with regard to contract labors and that the original authority has simply ignored the same. The order of the original authority states that no evidence was let in and no material was placed before it. Be that as it may, no material in this regard has been placed before the learned Single Judge. Before this Division Bench in the typed set of papers also, no material has been placed. As noticed supra, in any event, this plea of private respondents before us being contract labors and being governed by the Contract Labour (Regulation and Abolition) Act, 1970 is of no avail as that has no direct impact on the central issue. It has no direct impact on the central issue as there is no dispute about the fact that these private respondents were actually deployed in various projects of TWAD Board and that they worked in the projects of TWAD Board.

8 Under the aforesaid circumstances, we find no reason to interfere with the order of the learned Single Judge which has been called in question before us.

9 In the light of the narrative supra, this writ appeal fails and the same is dismissed. Considering the nature of the matter, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar (AS)

/True copy/



To

The Deputy Commissioner of Labour,
(Authority under the Payment of Wages Act),
Madurai.

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+1cc to M/s.POLAX LEGAL SOULUTIONS, Advocate, SR.No. 70844

+1cc to Mr.S.ARUNACHALAM, Advocate, SR.No. 70675

+1cc to M/s.Special Government Pleader,SR.No. 70556

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29.06.2018

VVK

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